
UTAH LABOR COMMISSION

ROBERT O. BLACK,

Petitioner,

vs.

**LABOR READY and
INSURANCE CO. OF THE
STATE OF PENNSYLVANIA,**

Respondents.

**ORDER AFFIRMING
ALJ'S DECISION**

Case No. 04-0880

Labor Ready and its insurance carrier, Insurance Co. of the State of Pennsylvania, (referred to jointly as "Labor Ready") ask the Utah Labor Commission to review Administrative Law Judge La Jeunesse's award of benefits to Robert O. Black under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Black claims workers' compensation benefits for two separate work accidents that occurred on July 14, 2004, and August 12, 2004, allegedly causing or aggravating his heart condition. The parties stipulated to facts, waiver of a hearing, and referral to a medical panel on the question of medical causation. The panel found Mr. Black's work activities aggravated a preexisting condition, causing episodes of angina in July and August of 2004. After receiving the panel's report, Labor Ready asked for additional time to file an objection to the panel's report so that its medical consultant could review it. Judge La Jeunesse denied Labor Ready's request, adopted the panel's opinion, and awarded benefits.

In its motion for review, Labor Ready argues that the medical panel raised a new claim—exertional angina—that Labor Ready was not given sufficient notice or opportunity to defend against.

FINDINGS OF FACT

The Commission adopts Judge La Jeunesse's findings of fact, incorporated directly from the parties' stipulation. The following facts, as supplemented from the record, are relevant to the motion for review:

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On July 14, 2004, Mr. Black was shoveling gravel at work when he experienced chest pain and sought emergency medical treatment. Dr. Nautiyal treated Mr. Black and noted that “[h]e has not previously had exertional angina.” Dr. Nautiyal then determined that Mr. Black suffered an attack of unstable angina. On August 10, 2004, Mr. Black again felt chest pain while working and reported to the emergency room to undergo further tests.

Mr. Black filed his application for benefits alleging that his work activities caused him to suffer heart attacks in July and August. Later, Labor Ready asked its medical consultant, Dr. Anderson, to review the medical records. Dr. Anderson assessed Mr. Black’s condition as atherosclerotic coronary disease that was a preexisting condition not caused or aggravated by Mr. Black’s work. Dr. Anderson further noted that, contrary to some references in Mr. Black’s medical records, “he never suffered from a heart attack (myocardial infarction)—only angina.”

Shortly after Dr. Anderson provided his report, the parties agreed to waive their right to an evidentiary hearing and instead asked the Commission to appoint a medical panel to offer its opinion on Mr. Black’s heart condition. The medical panelists, a vascular surgeon and a cardiovascular surgeon, examined Mr. Black and his medical records and concluded Mr. Black had progressive coronary artery disease that was a preexisting condition. The panel further concluded that Mr. Black’s work activities in July and August aggravated his preexisting heart condition and caused Mr. Black to suffer attacks of angina. Specifically, the panel opined:

Robert Black suffered an episode of unstable angina on July 14, 2004. This was aggravated by his work activities during that day. His underlying problem is one of progressive coronary artery disease. . . .

[Question #8] The patient had an attack of angina on August 10, 2004, which was aggravated by his work activities that day. . . .

[In response to the parties’ question No. 1] The patient has symptoms of exertional angina. This is secondary to coronary artery disease. . . .

[In response to the parties’ question No. 2] The patient did not suffer a heart attack in July or August. He has an episode of unstable angina in July which resulted in coronary artery stents being placed. His symptoms in August of 2004 were straightforward exertional angina. . . .

DISCUSSION AND CONCLUSION OF LAW

The primary issue before the Commission is whether the medical panel’s opinion that Mr. Black’s episodes in July and August 2004 were attacks of angina—not heart attacks as identified on Mr. Black’s application for benefits—raised a new issue of which Labor Ready was not previously given notice.

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The Commission, having reviewed the record and history of these proceedings, finds that Labor Ready had ample notice and opportunity to defend against Mr. Black's claim for benefits for a heart condition caused or aggravated by his work activities. No other issue or claim was presented in the panel's report that the parties had not already been made aware of from the medical evidence.

In fact, Labor Ready's medical consultant had said that Mr. Black's episodes in July and August were angina, although he did not identify any particular type of angina. Furthermore, the parties agreed, by their stipulation, to refer the medical aspects of the claim to the Commission appointed panel for resolution of issues related to Mr. Black's heart condition. The panel then provided a thorough and well-reasoned opinion on the issues that were presented to it. Therefore the Commission finds Labor Ready had sufficient notice and opportunity to defend against Mr. Black's claim for benefits for his heart condition.

For these same reasons, the Commission also finds Judge La Jeunesse's denial of Labor Ready's request for additional time to object to the panel's report was not error or a denial of Labor Ready's equal protection rights. The Commission affirms Judge La Jeunesse's order for benefits.

ORDER

The Commission affirms Judge La Jeunesse's decision. It is so ordered.

Dated this 26th day of November, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.